



AUDIT AND ADVISORY SERVICES  
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November 4, 2021

Marc Fisher  
Vice Chancellor  
Administration

Vice Chancellor Fisher:

We have completed our campus audit of UC Fair Wage/Fair Work Plan compliance conducted systemwide as per our annual service plan in accordance with the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing* and the University of California Internal Audit Charter.

Our observations with management action plans are expounded upon in the accompanying report. Please destroy all copies of draft reports and related documents. Thank you to the staff of Supply Chain Management and Real Estate Services for their cooperative efforts throughout the audit process. Please do not hesitate to call on Audit and Advisory Services if we can be of further assistance in this or other matters.

Respectfully reported,

Jaime Jue  
Director

cc: Associate Vice Chancellor John Arvin  
Chief Procurement Officer Russell Chung  
Assistant Vice Chancellor and Chief of Staff William Reichle  
Associate Chancellor Khira Griscavage  
Associate Vice Chancellor and Controller Michael Riley  
Senior Vice President and Chief Compliance and Audit Officer Alexander Bustamante



# AUDIT AND ADVISORY SERVICES

## Fair Wage/Fair Work Audit Project No. 21-756

November 4, 2021

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**University of California, Berkeley  
Audit and Advisory Services  
Fair Wage/Fair Work**

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# OVERVIEW

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## Executive Summary

The purpose of the systemwide audit was to determine whether adequate controls were in place to provide reasonable assurance that the campus is in compliance with the current requirements associated with the UC Fair Wage/Fair Work policy as defined in Business and Finance Bulletin (BFB) BUS-43 *Purchases of Goods and Services; Supply Chain Management* and the UC Terms and Conditions of Purchase.

We acknowledge Supply Chain Management's ongoing efforts to be compliant with requirements related to fair wage/fair work policy, however, we note opportunities to enhance monitoring and oversight of the submission of vendor certifications to ensure their timeliness and appropriateness. We noted four instances where a completed certification form was received later than the required date, as well as one untimely submission of a vendor exemption form. Additionally, we noted a repeat observation from last year's audit related to a supplier submitting a verification that was not certified by an independent party in accordance with established requirements.

Based on our review, no testing exceptions or reportable observations were noted related to Real Estate Services' compliance with fair wage/fair work requirements as applicable to real estate agreements.

## **Source and Purpose of the Audit**

The purpose of the systemwide audit was to determine whether adequate controls were in place to provide reasonable assurance that the campus is in compliance with the UC Fair Wage/Fair Work policy as defined in Business and Finance Bulletin BFB-BUS-43 *Purchases of Goods and Services; Supply Chain Management* and the UC Terms and Conditions of Purchase.

## **Scope of the Audit**

The audit scope was established by the University of California Office of the President's Office of Ethics, Compliance, and Audit Services and encompassed a review of current fair wage/fair work practices and requirements by Supply Chain Management and Real Estate Services.

Our review followed the systemwide audit procedures which included testing the completeness of the population of contracts, leases, and licenses and verifying the inclusion of the provision language, inspection of audit certifications, and for one sampled procurement contract, the external CPA audit report related to vendor certification. Additionally, a sample of contracts for services as well as real estate leases and licenses in effect during calendar year 2020 were selected for review.

The audit fieldwork was performed during May through August 2021.

## **Background Information**

### *Fair Wage/Fair Work Related to Procurement*

President Napolitano announced the systemwide fair wage/fair work requirement in July 2015 stating that the minimum wage for university workers, including workers of suppliers that perform services at a UC location, would be raised to a minimum of \$15 per hour beginning October 1, 2017. This requirement does not apply to the provision of goods nor does it apply to services delivered as part of an extramural award containing sponsor-mandated terms and conditions. This requirement also complements, but does not supersede where applicable, State of California prevailing wage requirements for public works.

Suppliers who provide services that exceed \$100,000 annually and are not subject to prevailing wage requirements are required to conduct an annual independent audit, performed by an independent auditor or independent internal audit department in compliance with the university's required audit standards and procedures. To assess ongoing compliance, suppliers are subject to compliance audits by the university at its sole discretion. They are also required to provide the university with access to the audit work papers upon request. In addition, the supplier also agrees that it will provide a certification of compliance annually.

### *Fair Wage/Fair Work Related to Leased or Licensed Real Estate*

Systemwide fair wage/fair work requirements also pertain to real property leasing and licensing agreements effective May 1, 2016, under certain circumstances. Relevant guidelines and criteria are contained in the *Fair Wage/Fair Work Plan Applicability To Real Property Leased or Licensed*

*To or By The Regents of the University of California (UC).* Guidelines stipulate that all workers in those leased or licensed locations meeting established criteria must be paid a minimum of \$15 per hour. In addition, real estate lessee (and lessor) and licensee (and licensor) agreements subject to fair wage/fair work requirements are required to contain specific fair wage/fair work language in the lease agreement. Lessees and licensees must also provide an annual verification form attesting to their compliance with the fair wage/fair work provisions.

### **Summary Conclusion**

#### *Supply Chain Management*

We acknowledge Supply Chain Management's efforts to be compliant with requirements related to fair wage/fair work policy, however, we note a repeat observation from previous years' audits related to the completion and timely receipt of supplier's annual verification forms, as well as one instance in which a supplier verification was not certified by an independent party in accordance with established requirements. Therefore, we recommend that Supply Chain Management continue to improve its monitoring and communication with suppliers that are required to provide annual verifications.

We further recommend that Supply Chain Management adhere to the UCOP guidance related to the execution and submission of professional services exemption forms by collecting them from suppliers when the agreement is signed, purchase order is generated, or when the supplier reaches \$100,000 in spend in the preceding 12 months. Our review found that a supplier's representative submitted the exemption form over 14 months after the purchase order date and, therefore, the exemption was not pre-certified as required.

#### *Real Estate Services*

Based on our review, no testing exceptions or reportable observations were noted related to Real Estate Services' compliance with fair wage/fair work requirements as applicable to real estate agreements.

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# SUMMARY OF OBSERVATIONS & MANAGEMENT RESPONSE AND ACTION PLAN

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## Supply Chain Management

### Observations

*Receipt of Annual Verifications* – Our review of the annual verification documentation that Procurement maintained for contracts with suppliers last year that exceeded \$100,000 in services found that not all suppliers were submitting their verifications timely to Supply Chain Management. Of the seven verifications reviewed, four were received later than 90 days after the contract anniversary date, approximately one to three months later. Additionally, one of these verifications was signed by the supplier’s HR director instead of by an authorized representative of the independent accounting firm or internal auditor as is required by policy. This is a repeat observation from the prior year’s audit.

*Receipt of Exemption for Professional Services* – Our review of the timeliness of the receipt of exemptions for professional services found that one supplier executed (i.e., signed) the exemption form over 14 months after the purchase order date and, therefore, the exemption was not pre-certified as required.

We recommend that Supply Chain Management continue to improve its monitoring and communication to suppliers that are required to provide annual verifications and exemption forms to ensure they are received timely and are appropriately signed.

### Management Response and Action Plan

UC Berkeley incorporates UC’s Fair/Wage Fair Work policy (FW/FW) into all of its contracts and purchase orders, when applicable. With new tools developed by the Office of the President in 2019, such as the professional services exemption and FW/FW audit notification letters to be sent to its suppliers, UC Berkeley saw improvements in its FW/FW compliance for contracts more than \$100,000 again in 2020. However, Supply Chain Management (SCM) still needs to understand when the exemptions should be requested as there is no clear policy when to obtain these exemptions and if they need to be renewed annually or only collected once. Given that on January 1, 2022, the State's minimum wage will be \$15.00/hour, SCM foresees FW/FW becoming increasingly moot for its suppliers to comply with the policy.

SCM’s Procurement Manager and Procurement Supervisor will work with the campus’s procurement professionals and suppliers to ensure UC Berkeley continues to collect the required audit verification documents within 90 days of the contract anniversary date, when required, and/or Professional Services Exemptions are collected in a timely manner — preferably at the time of contract execution. Actions are anticipated to include teaching buyers to set reminders in procurement systems at the 90, 60 and 30-day marks of the FW/FW procurement contract anniversary to notify suppliers they need to collect the certifications. Training will be implemented by January 31, 2022.

With respect to the supplier whose verifications were not performed by an appropriate entity, this matter has been escalated and the supplier was formally noticed that they are out of compliance with FW/FW verification requirements. For the current and prior years, the supplier has agreed to provide new verifications performed by a licensed public accounting firm by fall 2021. Ongoing compliance for this supplier will be monitored, and the campus Chief Procurement Officer will be notified in case of future lapses.